



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

May 5, 2005

Ms. Mary Winston  
Public Information Officer  
Texas Savings and Loan Department  
2601 North Lamar, Suite 201  
Austin, Texas 78705

OR2005-03913

Dear Ms. Winston:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 223451.

The Texas Savings and Loan Department (the "department") received a request for "any bond filed with [the department] for SYNERGY BANK." (Emphasis in original). You claim that the requested information is excepted from disclosure under sections 552.101 and 552.112 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.112(a) of the Government Code excepts from disclosure "information contained in or relating to examination, operating, or condition reports prepared by or for an agency responsible for the regulation or supervision of financial institutions or securities, or both." The department is responsible for the regulation of Synergy Bank, which is a "financial institution" for purposes of section 552.112(a). See Open Records Decision No. 158 at 5-6 (1977). You state that the requested information "is located within an examination report made to the Commissioner." We conclude, therefore, that the requested report is excepted from disclosure pursuant to section 552.112(a). See Open Records Decision No. 392 (1983).<sup>1</sup>

---

<sup>1</sup>Because section 552.112 is dispositive in regard to the requested report, we do not address your other arguments for excepting the report from required public disclosure.

You also ask this office to issue a previous determination that would authorize the department to withhold information pertaining to the condition or operation of a financial institution and information contained in an examination report of that financial institution without the necessity of requesting an attorney general decision. We decline to do so at this time. Accordingly, this letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Tex. Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code

§ 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in black ink, appearing to read "L. Joseph James". The signature is fluid and cursive, with the first name "L." and last name "James" clearly distinguishable.

L. Joseph James  
Assistant Attorney General  
Open Records Division

LJJ/seg

Ref: ID# 223451

Enc. Submitted documents

c: Mr. Martin Kyle Mills  
c/o 694 146<sup>th</sup> Avenue  
Caledonia, Michigan 49316  
(w/o enclosures)